

# UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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In the matter of:	)	
C.F. COMMUNICATIONS CORP.,	)	EB Docket No. <u>01-99</u>
et al.,	)	
Complainants,	)	File Nos. E-93-34, E-93-35,
	)	E-93-36, E-93-37, E-93-38,
	)	E-93-40, E-93-41, E-93-42,
	)	E-93-43, E-93-44, E-93-45,
v.	)	E-93-46, E-93-47, E-93-48,
	)	E-93-49, E-93-50, E-93-56,
CENTURY TELEPHONE OF	)	E-93-58, E-93-59, E-93-60, E-93-61,
WISCONSIN, INC., et al.,	)	E-93-62, E-93-62, E-93-73,
	)	E-93-74, E-93-081
Defendants.	)	

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ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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	)	E-93-74, E-93-081
Defendants.	)	

Courtroom A, Room 363  
495 12th Street, S.W.  
Washington, D.C.

Wednesday,  
September 19, 2001

The parties met, pursuant to the notice of the  
Judge, at 2:01 p.m.

BEFORE: HONORABLE ARTHUR I. STEINBERG  
Judge

Heritage Reporting Corporation  
(202) 628-4888

## APPEARANCES:

On behalf of Alcazar Homes, Ltd.,  
Ascom Holding, Inc., B.D.A. Sales, Inc.,  
ETS Payphones, Inc., Just-Tel, Inc.,  
Mayflower Communications, Inc.,  
New York City Telecommunications Company,  
New York Pay Phone Systems, Inc., and  
Telebeam Telecommunications Corporation:

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P R O C E E D I N G S

(2:01 a.m.)

JUDGE STEINBERG: This is a further pre-hearing conference in EB Docket No. 01-99. I called this conference so that each party could update me as to the status of settlement discussions among them.

First, before we do that, did everybody get an advance copy of the ruling that I issued today?

Okay. Let me quickly take the appearances I'll just say for Alcazar Homes and the other complainants represented by Dickstein, Shapiro?

MS. HENRY: Katherine Henry.

MR. WINSBRO: Jack Winsbro.

JUDGE STEINBERG: Okay. For Best Payphones and Kayson Communications, let the record reflect no response.

For the Verizon Companies?

MR. GOODMAN: John Goodman.

MS. INGRAM: Sherry Ingram.

MR. DYSON: Michael Dyson from the law firm of Winston & Strawn.

JUDGE STEINBERG: You don't have to get up. They do that in real court.

MR. DYSON: Thanks.

JUDGE STEINBERG: This is kind of pretend court. For Carolina Telephone and Telegraph Company and

1 the other two Sprint companies?

2 MS. SISAk: Mary Sisak.

3 MR. JACKSON: And Robert Jackson.

4 JUDGE STEINBERG: For Southwestern Bell Telephone  
5 Company let the record reflect no response.

6 For the Chief, Enforcement Bureau, Federal  
7 Communications Commission?

8 MR. SHOOK: We're mikeless, but you know who we  
9 are.

10 JUDGE STEINBERG: Okay. James Shook and Tajon  
11 Mata (phonetic).

12 Now, why don't we just go through like we did the  
13 last time and you can just update me as to the status and  
14 then I can perhaps congratulate you or berate you,  
15 depending.

16 For Alcazar Homes, Ltd.?

17 MS. HENRY: On that one, Your Honor, on several of  
18 these we've made substantial progress and are in  
19 negotiations with Verizon. On that particular one, we have  
20 not yet made a demand on Verizon. We are waiting for some  
21 further confirmation from our client on a couple of  
22 ownership issues and have not been able to reach him. We  
23 had a delay last week and then a couple of Jewish holidays.  
24 We are hopeful and I have told Mr. Goodman today that I am  
25 hopeful I will be able to present something to him tomorrow

1 after I reach the client.

2 JUDGE STEINBERG: Okay. Mr. Goodman, do you want  
3 to contribute?

4 MR. GOODMAN: I'm still waiting for something.

5 JUDGE STEINBERG: Okay. For Ascom Holding, Inc.,  
6 first we'll talk about Verizon and then we'll talk about  
7 Sprint.

8 MS. HENRY: On Tuesday, September 4th, we made a  
9 demand on behalf of Ascom. After the events of last week,  
10 Mr. Goodman reached me, he had some questions, I was  
11 traveling, unfortunately, driving back from Chicago, and we  
12 talked this morning about his questions which regard  
13 documents we've provided them to show various aspects of our  
14 claim and we're prepared to talk to him about those today so  
15 that he can evaluate our demand.

16 JUDGE STEINBERG: Okay. Now, how about Ascom  
17 Holding, Inc., the complaints filed against Sprint Company?

18 MS. HENRY: Against Sprint? We have made a demand  
19 on Sprint, we have had discussions with Sprint, there is a  
20 dispute as to the number of lines, which has made it  
21 difficult for us to engage in any negotiations. I think we  
22 need to look at some more documentation and just have some  
23 further discussions to see if we can come to an agreement on  
24 the number of lines. But right now, we're spread too far.

25 JUDGE STEINBERG: Okay. Ms. Sisak?

1 MS. SISAK: I'm sorry, I didn't really hear the  
2 last response that was given.

3 JUDGE STEINBERG: Maybe we can have some more  
4 discussions. There's a dispute about the number of lines?

5 MS. SISAK: That's correct.

6 JUDGE STEINBERG: And is there any --

7 MS. SISAK: We've asked for some documentation and  
8 it's my understanding it will be provided soon. And once we  
9 have that documentation, we should be able to go forward,  
10 but we're still waiting.

11 JUDGE STEINBERG: But is there basically -- you  
12 both agree that there is at least -- let's say the demand  
13 says we had 100 lines and you say, no, you only had 50, can  
14 there be anything done about the stuff you agree with? You  
15 know, that you both agree to?

16 MS. HENRY: I think the discrepancy is so large  
17 that we would probably be better off either determining that  
18 we could settle the discrepancy or that we can't and then  
19 perhaps do what you suggest, but I'd like to see if we could  
20 first figure out why we have this different view of the  
21 facts.

22 JUDGE STEINBERG: Okay. But is everybody willing  
23 to sit down and compare documents or whatever else you do to  
24 determine the number of lines?

25 I mean, Sprint's willing to do that, aren't you?



1 MS. SISAK: Yes.

2 MS. HENRY: We certainly are, as we're doing now.

3 JUDGE STEINBERG: Okay. And, I'm sorry,  
4 Mr. Goodman, I didn't let you comment on Verizon.

5 MR. GOODMAN: I don't have anything to add.

6 JUDGE STEINBERG: Okay. I didn't want you to  
7 think --

8 MR. GOODMAN: I'd raise my hand and ask.

9 JUDGE STEINBERG: Okay. I didn't want you to  
10 think I'd forgotten about you.

11 Let me get back to the Sprint things.

12 Do you know when -- well, I guess some of it would  
13 depend on when you get the material or the information  
14 that's the subject of the order that I've issued today. Is  
15 that right?

16 MS. SISAK: No, I don't believe any of that  
17 information is necessary for our discussions.

18 JUDGE STEINBERG: Okay.

19 MS. HENRY: We have a different view. Also, am  
20 I correct, there are documents that we expected to receive  
21 yesterday and that to our knowledge we have not received?

22 Now, they may have come to our office and we don't  
23 know that, but I'm not aware that we've got the documents  
24 that were supposed to be produced to us yesterday.

25 MS. SISAK: I believe if you look at the answers,

1 no documents were provided because none were found.

2 MS. HENRY: Okay. But you've provided us with the  
3 answers yesterday?

4 MS. SISAK: The supplemental interrogatories and  
5 document requests were filed and served on the parties  
6 yesterday.

7 MS. HENRY: Okay. Well, I have not seen those,  
8 but we'll see about locating them. And we may need that  
9 before, Your Honor -- we need to look at them, obviously,  
10 and see what the responses are.

11 JUDGE STEINBERG: Okay. And then the next one is  
12 B.D.A. Sales?

13 MS. HENRY: Yes, Your Honor. We have engaged in  
14 negotiations with Verizon, actually gone through a round of  
15 negotiations. We've provided additional documentation to  
16 Verizon. Verizon has asked for another piece of  
17 documentation. A lot of this has been produced in  
18 discovery. We're almost running this on two tracks. We're  
19 producing things in discovery but in my discussions on  
20 settlement directly with Mr. Goodman, if it's feasible, I am  
21 just giving him a copy of something that I might have and he  
22 asked for an additional piece of dollar end information  
23 which I've got to give to him today so he can look at that  
24 and then we can see if we can narrow our discrepancies  
25 there.

1 JUDGE STEINBERG: Okay. Mr. Goodman asked for  
2 something and you're prepared to give it to him today?

3 MS. HENRY: Yes. Yes.

4 JUDGE STEINBERG: Okay. ETS Payphones?

5 MS. HENRY: We have not made a demand on that  
6 particular claimant. We are still looking at it. We're  
7 going to be in a position to make demand probably by the end  
8 of the week. That's another one where we're a bit farther  
9 behind than we expected to be. I actually thought I'd be  
10 farther along on that one than we are.

11 JUDGE STEINBERG: Okay. Because the last session,  
12 there was -- I think Mr. Goodman said there was a question  
13 whether the vehicle fee was ever paid.

14 MR. GOODMAN: Our records indicate that they  
15 didn't pay, that's what we've been indicating all along and  
16 we haven't gotten any documentation to dispute that.

17 JUDGE STEINBERG: Okay. Just-Tel? Which --  
18 that's the same name.

19 MS. HENRY: Just-Tel is correct. We have engaged  
20 in extensive negotiations. We're very close to settling the  
21 claim, we just need to narrow a small gap.

22 JUDGE STEINBERG: Mayflower?

23 MS. HENRY: I always take a step back when you say  
24 Mayflower.

25 JUDGE STEINBERG: Yes. I don't have my cheat

1 sheet with me.

2 MR. WINSBRO: The next one is Crescent.

3 MS. HENRY: Crescent. We made a demand today on  
4 Crescent to Verizon and I have also brought some documents  
5 that Verizon has asked to see or that I suggested might be  
6 helpful for Verizon to take a look at and have offered to  
7 make them also available for further study or for Verizon to  
8 photocopy. But we have communicated a demand and we're  
9 going to provide them some additional documents to look at.

10 JUDGE STEINBERG: Okay. Now, I think the last  
11 time, someone said there was an agreement with respect to an  
12 initial time period?

13 MR. GOODMAN: There was. We had a common  
14 understanding of how much Crescent paid for a particular  
15 time period. We had thought that was the end of it, that  
16 they sold their phones and went out of business. I gather  
17 that, you know, that Crescent believes or Mayflower believes  
18 that it kept some phones after that period agreement.

19 JUDGE STEINBERG: Okay.

20 MS. HENRY: And we're going to show them the  
21 documents that shows we kept the phones, et cetera, for that  
22 period, but we do have an agreement on the previous periods.

23 JUDGE STEINBERG: Okay. So what we're talking  
24 about is the later time period and the number of phones that  
25 they may have kept.

1 MS. HENRY: Right. Exactly.

2 JUDGE STEINBERG: New York City Telecommunications  
3 Company?

4 MS. HENRY: That case has settled.

5 JUDGE STEINBERG: Settled?

6 ALL: No.

7 MS. HENRY: Oh, that's Millicom. We have not made  
8 a demand on Millicom.

9 JUDGE STEINBERG: Oh, Millicom.

10 MS. HENRY: We have had discussions about Millicom  
11 and that's another one where I can't reach the client  
12 because of the Jewish holidays and I told Mr. Goodman today  
13 that I hope to be in a position in the next couple of days  
14 to make a demand on Millicom. I'm not yet there.

15 MR. GOODMAN: But that's also one where --

16 JUDGE STEINBERG: Right.

17 MR. GOODMAN: -- in one of the states, Tower  
18 Records indicated that there was no payment made at all and  
19 we have not seen anything pertaining to the contract.

20 MS. HENRY: But you also don't have any records  
21 for two other states in which we had lines. So there are  
22 some issues we're trying to sort out.

23 JUDGE STEINBERG: Okay. Now, is the status of  
24 the -- I guess the Millicom v. Southwestern Bell the same as  
25 it was last time?

1 MS. HENRY: No, we have negotiated on a settlement  
2 agreement -- I actually have tried to get it to my client to  
3 have the client authorize and I was unable to reach my  
4 client for two reasons, Internet virus yesterday and the  
5 Jewish holidays, but once he approves it, then we should  
6 have that.

7 JUDGE STEINBERG: So, I mean, but all lawyers are  
8 agreed.

9 MS. HENRY: Well, I wouldn't say -- there are a  
10 few slight additions that Mr. -- hasn't yet seen, but I  
11 don't think they're going to be a problem, but I wouldn't  
12 represent that he has seen the very final version.

13 JUDGE STEINBERG: Okay. New York Pay Phone  
14 Systems, Inc.?

15 MS. HENRY: That case has settled.

16 MR. GOODMAN: At least in principle. We don't  
17 have the papers yet.

18 MS. HENRY: Exactly.

19 JUDGE STEINBERG: Okay. So that's still -- okay.  
20 That was done last time. Okay.

21 Telebeam?

22 MS. HENRY: We have an agreement in principle on  
23 Telebeam as well.

24 JUDGE STEINBERG: Okay. And Best and Kayson we  
25 talked about last time and I assume there's been no change?

1 MS. INGRAM: Actually, we didn't have the check,  
2 but we do have it now. I just got it on the way down here,  
3 so -- I've just got to call him and we'll be done.

4 JUDGE STEINBERG: Okay. Well, now --

5 MS. INGRAM: With Kayson. Still working it out  
6 with Best. --

7 JUDGE STEINBERG: Best was -- I think that was  
8 kind of put off for business reasons until October 1st?

9 MS. INGRAM: Yes.

10 JUDGE STEINBERG: But Kayson is almost -- is --

11 MS. INGRAM: All we were waiting on was the check  
12 and it arrived today.

13 JUDGE STEINBERG: Okay.

14 MS. INGRAM: So we'll be done with that one and  
15 you should get something by the end of the week, I would  
16 think, to dismiss it.

17 JUDGE STEINBERG: That should please me.

18 On the ones that are still going on, how much more  
19 time do you think will be needed to -- I don't want to say  
20 either fish or cut bait, but how much time do you think will  
21 be required to possibly get them all settled?

22 MS. HENRY: Your Honor, from our perspective,  
23 particularly in light of last week and the fact that we lost  
24 a week, I would think that -- and we're going to be in a  
25 position to make demands on a few that we haven't made

1 demands on and then we're having discussions -- I would  
2 think in a week or ten days we're going to know whether we  
3 can narrow this and settle these cases, which we're hopeful  
4 of, and, if not, whether we need to go to the next step,  
5 incurring all the expense of document depositions and all  
6 those sorts of things.

7           A lot of these we are in active negotiations now  
8 and it's mostly a matter of responding to questions that are  
9 being posed and we're trying to do that. I think we're  
10 being forthcoming, if there's a question they pose or a  
11 document that Verizon wants to see, we're making it  
12 available if we can so that we can try to facilitate the  
13 settlement process because I think that's going to be the  
14 most cost efficient way to resolve these cases.

15           JUDGE STEINBERG: Mr. Goodman?

16           MR. GOODMAN: I would have hoped that we would  
17 have been a lot further along than we are now.

18           MS. HENRY: Agreed.

19           MR. GOODMAN: Obviously, it would have been better  
20 to settle these cases three months ago than to go through  
21 all the discover, all the motion practice that I don't think  
22 you have enjoyed, Your Honor. But we aren't there yet.

23           When we were here ten days ago, we thought we  
24 would have made a lot of progress in the next ten days and,  
25 quite frankly, we have made some, we have settled one case,



1 but we haven't made a whole lot of progress.

2 JUDGE STEINBERG: Well, some things have happened  
3 in the last week --

4 MR. GOODMAN: Some things have happened, indeed.

5 JUDGE STEINBERG: -- that have affected a lot of  
6 people.

7 MR. GOODMAN: That is quite true, Your Honor.

8 JUDGE STEINBERG: And if not physically, then  
9 mentally.

10 MR. GOODMAN: I would like to think that ten days  
11 more would help, but I'm not sure that it will. Obviously  
12 having a trial date causes people to focus and having to do  
13 other things to prepare for a trial, that also keeps people  
14 focused on getting the work done and getting rid of the case  
15 if we can. So I would like to see us stick to the schedule  
16 because then maybe that will cause us to get done. And it  
17 will be nice if we do, but if we don't, then we ought to be  
18 ready to try the cases.

19 JUDGE STEINBERG: Let me hear from Ms. Sisak or  
20 Mr. Jackson first.

21 You don't have to say anything if you don't want  
22 to.

23 MS. SISAK: Yes. I really don't know if ten days  
24 would be sufficient. I guess I agree with Mr. Goodman's  
25 initial comment. I had hoped to be further along in the

1 process at this point. Obviously, there were some  
2 intervening factors. There will probably be more  
3 intervening factors next week.

4 MS. HENRY: Let's hope not.

5 MS. SISAK: I heard some holidays mentioned as a  
6 reason for difficulty in getting back and forth with  
7 clients, I don't know if that affects my case, but I think  
8 there are more holidays next week.

9 JUDGE STEINBERG: Just one.

10 MS. SISAK: So I really don't know if ten days  
11 is -- what ten days does for anybody.

12 MS. HENRY: Your Honor, may I respond?

13 A couple of things. We would like to move today  
14 for an extension and I wasn't making that motion when I was  
15 responding to your remarks, but a couple of points I would  
16 like to make.

17 Jack Winsbro, who is meeting in this case with me,  
18 is in our New York office. Our New York office was closed  
19 quite a few days last week. I was in Chicago and ended up  
20 driving home and didn't get home until very late on  
21 Thursday, so we lost a lot of ground.

22 And I agree with Mr. Goodman, I'm disappointed  
23 that I'm not farther along on these cases, but there was  
24 something that occurred that, quite frankly, is out of my  
25 control and it has affected our firm, it's affected some of

1 our clients in that clients have had losses, had physical  
2 losses out of this, and it's made some things more difficult  
3 than they would have been otherwise.

4 The difficulty that I will have if we do not  
5 consider pushing some of these dates off is that we are  
6 going to have to turn our resources to doing some of these  
7 trial preps and depositions and we're perfectly prepared to  
8 do that, but that will harden our positions, it will make  
9 this much more difficult for me to persuade these clients to  
10 settle these cases as their costs rise and they will rise  
11 dramatically.

12 So my suggestion is that we hold off, we move all  
13 the dates by two weeks. To the extent that anybody wants to  
14 hold to a deposition date that's already been scheduled,  
15 then we're prepared to take those depositions, if they want  
16 to present someone because they've made arrangements, then  
17 we'll take the deposition so as not to inconvenience them  
18 and we'll go forward in that way. But I think that that  
19 would be more likely to settle some of these cases.

20 And I am the one who has constantly pushed for  
21 keeping the dates on because I think that has been in the  
22 past most likely to settle the cases. Where we are right  
23 now, it will do just the opposite.

24 As to dates, for example, we were suggesting the  
25 September 21st date be moved to October 5th. That's the

1 exhibit exchange date. The admissions session, which was on  
2 October 1st, be moved to October 15th. And the hearing  
3 date, which was October 15th, be moved to the 29th. And we  
4 also wanted to set a date for the Respondents to produce any  
5 rebuttal exhibits, rebuttal testimony, that sort of thing  
6 which I don't think has been specifically set.

7 JUDGE STEINBERG: Let's forget about rebuttal,  
8 because what I wanted to do was do that when we finished the  
9 direct cases, then set a separate schedule for rebuttal.

10 Any comment on any of this?

11 MS. HENRY: Yes, Your Honor. That is our motion.  
12 And we have consulted with the other side.

13 And I'm not sure, do we have a response?

14 MR. WINSBRO: I spoke to Sherry just this morning  
15 and Sherry's going to speak to John Goodman. So the answer  
16 is we don't have a direct response from Verizon. I also  
17 spoke to Mary Sisak yesterday and I gather from that  
18 conversation Mary wanted to keep at least one of the dates.  
19 I don't think we have any other response from that  
20 conversation.

21 MS. INGRAM: I think, Your Honor, what we wanted  
22 was to keep the 21st firm and we would not necessarily  
23 oppose putting off -- we had talked about scheduling --  
24 taking their depositions, we had given them dates for people  
25 on our side.

1           From our perspective, we understand there have  
2       been events, we would like to keep the 21st firm, but we  
3       wouldn't necessarily oppose a motion to postpone depositions  
4       for two weeks to see if we can settle these cases.

5           MR. GOODMAN: The depositions are obviously a  
6       costly undertaking, with all the lawyer time and also  
7       disruptive of the clients who have businesses to run, so we  
8       would -- and if all of us are sitting in deposition rooms,  
9       we can't be out there trying to settle the cases, so it  
10      would be fine to postpone those and the hearing as well, but  
11      we think it would actually be helpful to the cause of  
12      settlement if things that are due two days from now, on  
13      Friday, were actually filed as scheduled.

14          MS. SISAK: Your Honor?

15          JUDGE STEINBERG: Ms. Sisak?

16          MS. SISAK: We agree with Verizon's position.

17          JUDGE STEINBERG: Okay. Mr. Shook, do you have  
18      any comment?

19          MR. SHOOK: We have no objection to the motion.

20          JUDGE STEINBERG: Now do you want to respond?

21          MS. HENRY: The further comment I would make is  
22      that, if it's the Respondent's position that the September  
23      21st date should hold, then it's our position everything  
24      should hold because by holding the September 21st date, that  
25      will cause us to incur enormous expenses in the next few

1 days. In fact, we're already starting to incur them now.  
2 And, as I said before, it will really hurt the position in  
3 settlement and we might as well try the cases and just get  
4 it done and let's stay with the October 15th date and just  
5 try these cases, because I won't be able to settle them.

6 JUDGE STEINBERG: Okay. What I'm going to do is  
7 I would much rather that time and resources be expended for  
8 purposes of settlement than purposes of litigation, so I'm  
9 going to put off the exhibit exchange date. I'm going to  
10 put it off to October 2nd. I'm going to cancel the  
11 admissions session on October 1st. And I'm going to leave  
12 the hearing date October 15th.

13 And so we won't have an admissions session, we'll  
14 just do the exhibits as they come up at the hearing. And  
15 the purpose for the admissions session was to see if we  
16 could speed things along at the hearing, but I think given  
17 the circumstances, we'll just do the exhibits in the regular  
18 course of business during the hearing.

19 MR. GOODMAN: Your Honor, that means that we will  
20 be spending much of the next two weeks doing depositions.

21 MS. INGRAM: Yes. If you leave the 15th on that,  
22 we will have to.

23 MR. GOODMAN: We have not had any yet, we've been  
24 asking, we have some scheduled starting next week. So if  
25 the idea here is to get people to focus on trying to settle

1 as opposed to try to litigate --

2 JUDGE STEINBERG: I would assume that the  
3 depositions would be put off --

4 MS. INGRAM: Well, we wouldn't get the transcripts  
5 in time for -- if we waited until -- if we put them off next  
6 week, they're all scheduled for next week right now and  
7 October 1st, and if we're going to -- to put them off, we'd  
8 have to put them off to the week of the 1st or the week of  
9 the 8th. I'm not sure that we would all have time to get  
10 the transcripts back.

11 JUDGE STEINBERG: And that's just not doable?

12 MS. INGRAM: I don't think so.

13 MS. HENRY: Perhaps we could move the hearing date  
14 just by one week.

15 MS. INGRAM: One week.

16 MS. HENRY: From the 15th to the 22nd and not the  
17 29th. That would still be very accelerated, but give us  
18 time to take depositions.

19 JUDGE STEINBERG: Anybody have any -- well, I know  
20 you would object to that, but given -- well, if we're going  
21 to move the hearing date, then we may as well move the  
22 exhibit exchange.

23 Okay. Let me go back. So if we move the hearing  
24 date to October 22nd, then we can make the exhibit exchange  
25 October 9th?

1 MS. HENRY: Yes. I think that would --

2 JUDGE STEINBERG: And, again, cancel the  
3 admissions session?

4 MR. GOODMAN: Previously, the exhibit exchange  
5 date had been --

6 JUDGE STEINBERG: Yes. The 21st.

7 MR. GOODMAN: -- approximately three weeks before  
8 the hearing and now you've --

9 JUDGE STEINBERG: Right.

10 MR. GOODMAN: And now it's only two weeks before.

11 JUDGE STEINBERG: That's because there was an  
12 admissions session and I figured I'd give everybody --  
13 actually, it was about ten days with the exhibits and then  
14 you'd come and make your objections. I left it two weeks  
15 because I didn't know, the admissions session could have  
16 taken more than a week, given the number of cases.

17 MS. HENRY: Then we would do depositions the week  
18 of October 8th.

19 JUDGE STEINBERG: Well, that's up to you guys.  
20 You know, I know I said at the last conference that I wanted  
21 depositions except for experts, if there are any experts,  
22 finished by October 1st, but that's obviously not  
23 controlling any more.

24 Okay. Apart from objecting to what I'm doing,  
25 does anybody have any problems with those dates?



1 (No response.)

2 JUDGE STEINBERG: Now, October 29th is a holiday  
3 in Ireland. Does anybody have any problem with that?  
4 I just noticed in my Government calendar.

5 And then if we go -- okay. Never mind. If we go  
6 to the 31st, somebody has to bring candy.

7 MS. INGRAM: I'm having a party, Your Honor.

8 MR. GOODMAN: Are we invited?

9 MS. INGRAM: Oh, yes. Everybody's invited. It's  
10 costume, though.

11 JUDGE STEINBERG: I'm already wearing mine.

12 Okay. So, I mean, truthfully, I think -- I'd  
13 rather you spend your time and I'd rather you spend your  
14 clients' resources on getting this thing settled because  
15 it's been my position, I think, from the very beginning, and  
16 I haven't been shy about it, that all these things should be  
17 settled and I'll do whatever is within my authority to do to  
18 push settlement.

19 I don't want there -- if the thing is going to  
20 hearing, it's going to go to hearing because it's impossible  
21 to settle, not because people ran out of time or people got  
22 real mad at each other because of the expenditures that  
23 their opponents have cost them. And that's a silly reason  
24 not to settle.

25 Okay. I'd like to talk a little bit about exhibit

1 exchange because informal questions have come up, procedural  
2 questions have come up. For instance, I got a question,  
3 I forget from whom, that do you need to file six copies of  
4 the exhibits with the commission? And the answer is no.  
5 It's an exhibit exchange, I mean if this goes that far.

6 So all you need to do is just exchange one copy  
7 for each set of lawyers. Let's say one set of lawyers wants  
8 an extra copy, give two copies, three copies, whatever. I  
9 don't see much point in -- well, anyway, so basically  
10 exchange one set of exhibits with your opponents, one or two  
11 sets of exhibits with your opponents' counsel, however many  
12 they want, and I get a copy, the Bureau gets a copy --

13 You get one or two?

14 MR. SHOOK: One.

15 JUDGE STEINBERG: The Bureau gets one copy. And I  
16 get a copy, I think I already said that.

17 MS. HENRY: Yes, you did.

18 JUDGE STEINBERG: When we get to the hearing, and  
19 they don't have to be filed with the Commission, you just  
20 Fed Ex them or messenger them to each other and then send it  
21 messenger or Fed Ex a copy to me. And, as I said in my  
22 little footnote in the May 30th order, everybody has to have  
23 them on hand on the exhibit exchange date.

24 MR. SHOOK: With respect to the Bureau's copies,  
25 I would like them addressed to me.

1 MS. HENRY: Okay.

2 JUDGE STEINBERG: Okay. And, you know, make it by  
3 close of business, not 7:30 at night, make it, you know,  
4 make it by 5:00, 5:30, so that people if they want to bring  
5 them home for whatever reason, they can bring them home.

6 If you want to make arrangements among yourselves  
7 for -- if you want to make different arrangements for this  
8 thing among yourselves, that's fine with me. Like if  
9 Mr. Goodman says, "I don't want them," it's okay to get them  
10 to me on the morning of the 10th, fine. You don't have to  
11 ask my permission. But unless other arrangements are made,  
12 then everybody has to have them in hand on the 9th.

13 Mine can come the morning of the 10th, I don't  
14 care. You don't have to send somebody over here -- and  
15 Mr. Shook says the same thing -- because I'm certainly not  
16 taking it home. I don't think my trunk is big enough.

17 If Best and Kayson haven't completely settled by  
18 then, you might ask them if they want a copy. I don't think  
19 they'll want one, but if they're still parties to the case,  
20 they should get copies of everything.

21 MS. HENRY: As to the case to which they're  
22 parties.

23 MS. INGRAM: We've been sending everything.

24 JUDGE STEINBERG: Yes. But I can't imagine  
25 Mr. Thompson will want all the exhibits, because technically

1 everybody is a party in this case so that Mr. Jackson gets  
2 all the copies of the direct cases against Verizon, unless  
3 he says he doesn't want them. If you say you don't want  
4 them, then you won't -- I mean, then they don't have to send  
5 them to you. But if you say we want everything, then you're  
6 entitled to everything, just like the discovery. But I'll  
7 leave that up to you. Right now, everybody gets everything.

8 Yes, sir?

9 MR. JACKSON: One clarification, Your Honor.  
10 On the exhibit exchange date, if we're going to request  
11 official notice of any documents, we should, I would  
12 imagine, actually file that?

13 JUDGE STEINBERG: Yes. That's in my footnote,  
14 it's a long footnote, in my 30th order. The footnote 3,  
15 "If official notice is requested of any materials, they  
16 should be assembled in written form, properly identified by  
17 source, given an exhibit number or letter, and exchanged on  
18 the date set."

19 So that if you're going to ask for official  
20 notice, exchange it as an exhibit.

21 If something comes up during the hearing and we  
22 need to take official notice of something, then we'll take  
23 official notice of it, but to the greatest extent possible,  
24 I'd like it to be done on the exhibit exchange date. And  
25 I'll just reiterate that I've ordered written direct cases,

1 I don't want oral testimony at all unless it's in the nature  
2 of a correction or a supplement.

3 For instance, let's say someone discovers a  
4 document they should have exchanged and they exchange it and  
5 there hasn't been time to incorporate it into an affidavit  
6 or declaration, then you can supplement the direct written  
7 testimony with oral testimony.

8 If you're calling -- let's say if Alcazar is  
9 calling a Verizon witness, that's a hostile witness,  
10 obviously you don't have any control over that witness, so  
11 that witness will be presented for oral testimony, you don't  
12 have to reduce that to writing, but if it's your own direct  
13 case, your own witnesses, I want everything in writing.

14 When you get to the hearing and we're actually  
15 identifying and introducing the exhibits, you need to bring  
16 an original and one copy and the reporter gets those.

17 Okay. Any other questions about the exhibit  
18 exchange?

19 And I wouldn't expect the Defendant's to have any  
20 direct case exhibits. I would imagine that their stuff  
21 would be presented in rebuttal, but you're certainly welcome  
22 to do so. If you want to put on a direct case, you're  
23 welcome to put on a direct case.

24 The bureau can do that if they want to, too, but  
25 I don't anticipate that either.

1 MR. SHOOK: Not likely.

2 JUDGE STEINBERG: Okay. Any other things we need  
3 to discuss while we're here?

4 (No response.)

5 JUDGE STEINBERG: Would it be helpful to have  
6 another one of these conferences in a few weeks or would you  
7 just as soon not see me ever again?

8 MS. INGRAM: It might be helpful to have a phone  
9 conference to report on the status of settlement.

10 \*: At the very least.

11 MS. HENRY: Yes.

12 MS. INGRAM: I think it forces the parties to work  
13 harder when we have to tell you what we're doing.

14 MS. HENRY: Yes.

15 JUDGE STEINBERG: Well, I'd rather you come here  
16 because I don't like phone conferences.

17 MS. INGRAM: I was just thinking of people having  
18 to travel.

19 JUDGE STEINBERG: Yes, well, it's a nice day out  
20 of the office.

21 MS. HENRY: I think it would be helpful as well.  
22 I think having these conferences does help the whole  
23 process.

24 JUDGE STEINBERG: Okay. I like to have reporters  
25 present and transcribing things and that way everyone knows

1     what everyone says.

2                 Okay. Yom Kippur is just the 27th. It's sundown  
3     the 26th through the 27th. Rosh Hashanah sometimes is  
4     two days and sometimes -- it depends on how you observe.  
5     I think.

6                 So we're going to have -- I'm thinking out loud  
7     now -- why don't we set up a conference for Wednesday,  
8     October 3rd? Is that okay with everybody?

9                 MS. HENRY: Your Honor, I believe I'm going to be  
10    in New Orleans that day. I'll be back by the 4th.

11                JUDGE STEINBERG: Okay.

12                MS. HENRY: And I say I believe because I don't  
13    really know now if that meeting is going forward, but it  
14    hasn't been canceled yet.

15                JUDGE STEINBERG: Is the 4th okay with everybody,  
16    Thursday, the 4th?

17                (No response.)

18                JUDGE STEINBERG: And you want to do 8 a.m. and  
19    get it out of the way?

20                MS. HENRY: Whatever is convenient for you, it  
21    doesn't matter.

22                MR. GOODMAN: If that's convenient.

23                JUDGE STEINBERG: Okay.

24                MR. GOODMAN: We can go to depositions afterwards.

25                JUDGE STEINBERG: How about 9:30? Is that --

1 MS. HENRY: That's fine.

2 JUDGE STEINBERG: Is that okay with you,  
3 Mr. Shook?

4 MR. SHOOK: That depends on how cooperative my  
5 eight-year-old is that morning.

6 JUDGE STEINBERG: Well, bring him in. Or her.

7 MR. SHOOK: It's her and you don't want to see  
8 her.

9 JUDGE STEINBERG: Put her up here, give her this.

10 MR. SHOOK: Now, that would work. She's very good  
11 at that.

12 JUDGE STEINBERG: Okay. Anything else?

13 MR. SHOOK: I would get here as close to 9:30 as  
14 I could.

15 JUDGE STEINBERG: Okay. Then nothing further,  
16 we'll be in recess until October 4th. Again, if you need  
17 me, you all have my phone number. And, again, I'm willing  
18 to do whatever you think I can do to help things along, if  
19 you want a one-on-one or two-on-one basis or whatever, if  
20 everybody agrees that that's what you would like me to do.

21 We'll go off the record.

22 (Whereupon, at 2:39 p.m., the proceedings were  
23 adjourned.)

24 //

25 //



**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: 01-99  
CASE TITLE: C.F. Communications Comp.  
HEARING DATE: September 19, 2001  
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 9/19/01 Anthony Dantley  
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